



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 20, 1996

Mr. William L. Rentfro
Attorney for Brownsville I.S.D.
Rentfro & Rentfro, P.C.
2300 Boca Chica Blvd., Suite 201
Brownsville, Texas 78521

OR96-0207

Dear Mr. Rentfro:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35581.

The Brownsville Independent School District (the "district"), which you represent, received an open records request for the names, resumes, applications, and personnel files of all individuals who have applied for the position of superintendent of schools. You contend the requested information comes under the protection of section 552.124 of the Government Code, as recently enacted by the Texas legislature in Senate Bill 1.¹ See Act of May 30, 1995, 74th Leg., R.S., ch. 260, § 31, 1995 Tex. Sess. Law Serv. 2486 (Vernon). Section 552.124 provides:

The name of an applicant for the position of superintendent of a public school district is excepted from [required public disclosure], except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

¹The 74th legislature also enacted two other exceptions as "section 552.124." See Act of April 21, 1995, 74th Leg., R.S., ch. 76, § 5.02, 1995 Tex. Sess. Law Serv. 470 (Vernon); Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 11, 1995 Tex. Sess. Law Serv. 5133 (Vernon) ("Records of Library or Library System"); Act of May 9, 1995, 74th Leg., R.S., ch. 219, § 14, 1995 Tex. Sess. Law Serv. 1969 (Vernon) ("Certain Audits").

The effective date of this provision was May 30, 1995. The district received the current open records request on September 24, 1995. We therefore conclude that this provision is applicable to the current request.

We note the similarity between section 552.124 and section 552.123 of the Government Code, which excepts from required public disclosure the "*name of an applicant for the position of chief executive officer of an institution of higher education.*" (Emphasis added.) In determining the extent to which the statutory predecessor of section 552.123 protected the identity of applicants, this office concluded in Open Records Decision No. 540 (1990) as follows:

A name is by common usage often commonly considered the substantial equivalent of identity. Presley v. Wilson, 125 S.W.2d 654 (Tex. Civ. App.--Dallas 1939, writ dismissed, judgment corrected). Names are merely descriptive of persons for identification, but it is the identity which is the essential thing. Interpreting names and identities synonymously comports with prior attorney general opinions addressing the privacy of names of individuals in certain protected categories of persons and holding that protection from disclosure extends not only to the names of individuals *but also to any information tending to identify the individual.* See, e.g., Attorney General Opinion JM-36 (1983); Open Records Decision Nos. 477 (1987), 165 (1977) (relating to the identities of students); 339 (1982) (victims of sexual abuse or rape); 515 (1988) (informers covered by the informer's privilege). Examples of information identifying individuals might include, but is not limited to, *resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant.* (Emphasis added.)

We believe that the rationale outlined in Open Records Decision No. 540 (1990) is equally applicable here. Accordingly, we conclude that the district may withhold pursuant to section 552.124 all of the requested information with regard to those individuals who were not "finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote" was taken. On the other hand, the district must release all of the requested information pertaining to the "finalists" considered by the board for the position of superintendent.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/RWP/ch

Ref.: ID# 35581

Enclosures: Submitted documents

cc: Mr. Maro Robbins
Reporter
The Brownsville Herald
Brownsville, Texas 78521
(w/o enclosures)